

REMARKS

This Amendment is responsive to the Office Action dated November 10, 2005. Claims 1 and 3-8 were pending in the application. In the Office Action, claims 1 and 3-8 were rejected. In this Amendment, claims 1, 3-5 and 8 were amended. Claims 1 and 3-8 thus remain for consideration.

Applicant submits that claims 1 and 3-8 are in condition for allowance and requests withdrawal of the rejections in light of the following remarks.

Objections to the Drawings

(1) Examiner made note that originally presented Fig. 7 was not presented with the formal drawings. Fig. 7 is now presented herewith. A replacement sheet showing Fig. 7 is attached to this amendment.

(2) The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character not mentioned in the description: "31" in Fig. 7.

Paragraph 31 of the present invention has been amended to include element 31; therefore, Applicant requests removal of the above objection.

Claim Objections

Claims 1, 3-5 and 8 were objected to because of informalities.

Claims 1, 3-5 and 8 were amended as suggested by the Examiner. Applicant, therefore, believes the above objection should be removed.

First § 103 Rejection

Claims 1 and 3-6 were rejected under 35 USC 103(a) as being unpatentable over Schachter (USPN D340,670) in view of Friedman et al. (USPN 6,430,963).

Examiner states that “Schachter discloses a brilliant cut gemstone comprising: a brilliant cut crown on an upper side of a girdle, upper girdle facets and upper corner facets; the girdle having a plane comprising 8 sides shaped as an “approximately” equilateral octagon (Fig. 1); the corner facets spaced from the girdle (Fig. 2); and a pavilion located on a lower side of said girdle.”

Examiner admits, however, that “Schachter fails to disclose the pavilion including lower girdle facets, bezel star facets, lower corner facets, wherein the angle between the table and the lower girdle facets of approximately 50-60°.”

To overcome the deficiencies of Schachter, Examiner relies upon Friedman ‘963. Friedman ‘963, however, is commonly owned by Applicants’ assignee. Accordingly, Applicants hereby disclaim the terminal part of the present invention, which would extend beyond the expiration date of the full statutory term of Friedman et al. (USPN 6,430,963). A terminal disclaimer to this effect with the proper fee is attached to this amendment.

And since Schachter, by itself, does not disclose the pavilion including lower girdle facets, bezel star facets, lower corner facets, wherein the angle between the table and the lower girdle facets of approximately 50-60°, Applicants believe that independent claims 1 is patentable over Schachter. Accordingly, the above rejection is traversed.

Claims 3-6 depend on claim 1. Since claim 1 is believed to be patentable over Schachter, claims 3-6 are also believed to be patentable over Schachter on the basis of their dependency on claim 1.

Second § 103 Rejection

Claims 7 and 8 were rejected under 35 USC 103(a) as being unpatentable over Schachter (USPN D340,670) in view of Friedman et al. (USPN 6,430,963) as applied to Claim 1 above, and further in view of Wueste (USPN 6,698,239).

As stated above, Applicants believe that claim 1 is patentable over Schachter.

Therefore, because claims 7 and 8 depend on claim 1 and claim 1 is believed to be patentable over Schachter, claims 3-6 are also believed to be patentable over Schachter in view of Wueste on the basis of their dependency on claim 1.


CONCLUSION

Applicant respectfully submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 06-0515.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. T. Dennehy', written over a horizontal line.

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